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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,434	06/26/2003	Mark P. Anstadt	1034448-000007	5213
21839 7590 12/17/2008 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER OROPEZA, FRANCES P	
			ART UNIT 3766	PAPER NUMBER
			NOTIFICATION DATE 12/17/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

**Corrected
Notice of Allowability**

Application No.

10/607,434

Examiner

FRANCES P. OROPEZA

Applicant(s)

ANSTADT ET AL.

Art Unit

3766

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Notice of Allowance (10/27/08).
2. ☒ The allowed claim(s) is/are 132, 134-149, 156, 157, 159-162, 245-252 and 256-277.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

/Frances P. Oropeza/
Patent Examiner, Art Unit 3766
December 10, 2008

ALLOWANCE

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview between Brian P. O'Shaughnessy and Frances P. Oropeza on 9/29/08.

Claims 159, 160, 161, 162 and 265 have been amended. The claims as amended are provided, and portions of the claims that have been deleted and inserted are highlighted after the amended claim.

Relative to claim 159: --The method of claim 245, wherein said command instruction instructs delivery of a first therapeutic agent.--

("process as recited in", "131", "exporting of said at least one" and "the" have been deleted, and --method of-- and --245-- have been inserted)

Relative to claim 160: --The method of claim 159, wherein said first therapeutic agent is selected from the group consisting of anti-inflammatory agents, gene therapy agents, gene transfer agents, stem cells, chemo-attractants, cell regeneration agents, ventricular remodeling agents, anti-infection agents, tumor suppressants, tissue and/or cell engineering agents, imaging contrast agents, tissue staining agents, nutrients, and mixtures thereof.—

(“**process as recited in**” has been deleted, and “**method of**” has been inserted)

Relative to claim 161: --The method of claim 245, wherein said command instruction instructs delivery of a first regenerative agent.—

(“**process as recited in**”, “**131**”, “**exporting of said at least one**” and “**the**” have been deleted, and --**method of**-- and --**245**-- have been inserted)

Relative to claim 162: The method of claim 161, wherein said first regenerative agent is selected from the group consisting of tissue scaffold materials, biochemical materials, stem cells, and electrical stimulation.

(“**process as recited in**” has been deleted, and “**method of**” has been inserted)

Relative to claim 265: --A method of treating a patient requiring heart function assistance or therapy comprising:

- 1) connecting the patient to a cardiac assist device, said device comprising:
 - a) a cup having a compliant exterior wall joined to a compliant interior rolling diaphragm liner continuously along two circumferential lines forming a continuous annular cavity between said wall and said liner, wherein the liner comprises a tapered unbonded transition section reducing in thickness to a thin section, said cup configured to encompass, and to seal and conform to said heart from apex to atrio-ventricular groove throughout systolic and diastolic actuation by imposing negative pressure between said cup and said heart; and
 - b) a drive system in closed fluid communication with said cavity to effect displacement of said cavity;
 - c) a sensor; and

- d) a control system in communication with said drive system and with said sensor;
 - 2) collecting data from said sensor and importing said data into said control system;
 - 3) using an algorithm to formulate a command instruction from said control system in response to said data; and
 - 4) exporting said command instruction from said controller to said drive system to effect displacement of said annular cavity, and wherein said displacement actively supports systolic and diastolic actuation of the heart.
- (in 1) a) --wherein the liner comprises a tapered unbonded transition section reducing in thickness to a thin section--, and --throughout systolic and diastolic actuation by imposing negative pressure between said cup and said heart-- have been inserted)

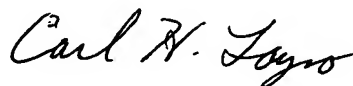
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (571) 272-4953. Fran's schedule is Monday and Tuesday 9AM-7PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl. H. Layno can be reached on (571) 272-4949. Carl's schedule is Monday, Wednesday, Friday 9AM-5 PM EST; Tuesday, Thursday 9AM-3PM and 9PM-11PM EST. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communication and for After Final communications.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Frances P. Oropeza/
Patent Examiner, Art Unit 3766
December 10, 2008



CARL H. LAYNO
SUPERVISORY PATENT EXAMINER

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